



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

JUN 24 2012

The Honorable Steve Southerland, II  
Member, United States House of Representatives  
840 West 11<sup>th</sup> Street, Suite 2250  
Panama City, Florida 32401

Dear Congressman Southerland:

Thank you for your April 23, 2012, letter to the U.S. Environmental Protection Agency on behalf of Mr. M. DeLacy Peavy concerning the installation of electrical power lines on Mr. Peavy's property located in Wakulla County, Florida.

As you are aware, Section 301(a) of the Clean Water Act (CWA) prohibits the discharge of dredged and/or fill material into waters of the United States without obtaining a CWA Section 404 wetlands permit from the United States Army Corps of Engineers (COE). After discovering that dredged and/or fill material was placed into waters of the United States on Mr. Peavy's property without authorization from a CWA Section 404 permit, the COE issued a Cease and Desist Order to Mr. Peavy on September 28, 2011, ordering him to cease and desist from performing additional unauthorized construction work in waters of the United States. Mr. Peavy thereafter requested clarification from the COE as to whether certain construction projects were the subject of the Cease and Desist Order. In response to Mr. Peavy's request, the COE, with assistance from the Florida Department of Environmental Protection (FDEP), visited Mr. Peavy's property on November 15, 2011, to determine if his residential home, well, pole barn, proposed fence, and driveway/access road were subject to the Cease and Desist Order.

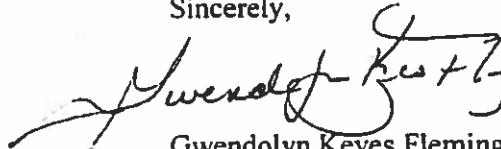
On November 21, 2011, the COE informed Mr. Peavy and his consultant, Mr. Dan Garlick, that his residential home, well, pole barn, and proposed fence were not subject to the Cease and Desist Order since none of those structures were either constructed or proposed to be constructed in waters of the United States. However, the COE informed Mr. Peavy via email on both November 21 and November 28, 2011, that his driveway/access road was partially constructed in waters of the United States, and, as a result, the installation of underground electrical power lines next to his driveway/access road was not authorized and was subject to the Cease and Desist Order (see enclosures).

On October 17, 2011, the EPA assumed the role of the lead enforcement agency in this case in accordance with a Memorandum of Agreement between the COE and the EPA concerning federal enforcement of Section 404 violations of the CWA. The EPA, with assistance from the COE and the FDEP, conducted an inspection of Mr. Peavy's property on February 14-16, 2012, and identified at least four acres of jurisdictional waters of the United States that were impacted by unauthorized discharges of dredged and/or fill material during construction activities on Mr. Peavy's property, including portions of an area identified by Mr. Peavy's consultant as a pasture and of the immediately adjacent driveway/access road.

These violations are currently the subject of an ongoing enforcement case. In accordance with long-standing EPA policy, we are unable to discuss the details of our settlement negotiations regarding these violations with you. However, we can assure you that the EPA has been actively working with Mr. Peavy's legal counsel, Mr. Thomas Tomasello, to resolve this matter as expeditiously as possible. Through a series of multiple phone and email conversations with Mr. Tomasello, commencing at the conclusion of the EPA's inspection on February 16, 2012, our attorneys and technical staff have provided information, answered questions and identified options available to Mr. Peavy to meet his electrical power needs that would not run afoul of either the CWA or the COE's outstanding Cease and Desist Order. They have also informed Mr. Tomasello that, once the enforcement matter is resolved, Mr. Peavy could begin working with the COE to obtain an after-the-fact permit for the installation of the power lines in other ways that might be more preferable to him. To that end, our attorneys and technical staff have explained what is needed to resolve the matter quickly, and are currently awaiting information that Mr. Tomasello has indicated will be forthcoming shortly.

If you have any questions or need additional information from the EPA, please contact me or the Region 4 Office of Congressional and Intergovernmental Relations at (404) 562-8327.

Sincerely,

A handwritten signature in black ink, appearing to read "Gwendolyn Keyes Fleming", written over a horizontal line.

Gwendolyn Keyes Fleming  
Regional Administrator

Enclosures

cc: Ms. Deborah L. Wegmann  
COE, Jacksonville District

Mr. Terry Wells  
COE, Jacksonville District  
Pensacola Field Office

Mr. Timothy Rach  
FDEP

Mr. Jeff Littlejohn  
Deputy Secretary for Regulatory Programs  
FDEP

STEVE SOUTHERLAND, II  
2ND DISTRICT, FLORIDA

COMMITTEE ON AGRICULTURE

COMMITTEE ON NATURAL RESOURCES

COMMITTEE ON  
TRANSPORTATION AND INFRASTRUCTURE

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**Congress of the United States**  
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April 23, 2012

Mr. Bryan Myers  
Office of Congressional Affairs  
Environmental Protection Agency  
61 Forsythe Street SW  
Atlanta, GA 30303

Dear Mr. Myers:

My Panama City District Office has been contacted by Mr. M. DeLacy Peavy to help clear up the issue(s) surrounding his property in Wakulla County, Florida (*see attached Casework Authorization Form*).

Mr. Peavy's project is nearly complete and all that remains is the running of electrical power (underground) to his house. He prefers to run it along side of the road/driveway but would be willing to run it down the middle of the road if necessary. This is the request that Mr. Peavy is awaiting approval on. There appears to have been some miscommunication and several separate and individual conversations that have left Mr. Peavy unsure of what is required of him.

I appreciate your work on this and quick attention to helping us resolve this for Mr. Peavy so that he may complete the project and enjoy his property. Please contact my District Director, Jonathan Hayes, at (850) 785-0812 or [Jonathan.Hayes@mail.house.gov](mailto:Jonathan.Hayes@mail.house.gov) should you have any further questions or need any additional information.

Warm regards,



Steve Southerland, II  
United States Representative